Analysis of State Recovery Funds

California Contractors State License Board

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Contractors State License Board

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Analysis of State Recovery Funds

"The board shall conduct a comprehensive study and review of recovery fund programs in California and other states which provide compensation to consumers for financial injury caused by a licensed professional. It should evaluate the effectiveness of these programs and whether such a recovery fund could benefit consumers who are harmed as a result of contractor fraud, poor workmanship, malfeasance, abandonment, failure to perform, or other illegal acts."

SB 2029, Section 7021(c), CSLB Sunset Report

Executive Summary

Evaluated Programs and Data

The Contractors State License Board (CSLB) conducted a comprehensive study and review of the five California recovery funds that compensate consumers for financial injury caused by a licensed professional and 16 contractor recovery fund programs regulated by other states.

The five California programs reviewed are:

- Real Estate Recovery Fund *(Department of Real Estate)*
- Client Security Fund *(State Bar)*
- Student Tuition Recovery Fund *(Department of Consumer Affairs)*
- Travel Consumer Restitution Fund *(Travel Consumer Restitution Corporation)*
- Manufactured Home Recovery Fund *(Occupational Licensing Program)*

Of the recovery fund programs regulated by other states, the following were chosen to study in depth. They represent four types of funds—residential, construction, lien, and warranty:

- Arizona's Residential Contractors' Recovery Fund *(Registrar of Contractors)*
- Florida's Construction Industries Recovery Fund *(Construction Industry Licensing Board)*
- Michigan's Homeowner Construction Lien Recovery Fund *(Director of Licensing and Regulations)*
- New Jersey's New Home Warranty Security Fund *(Department of Community Affairs)*

Arizona's Residential Contractors' Recovery Fund and Utah's Residence Lien Restrictions and Lien Recovery Fund were selected as models for hypothetical California contractor recovery funds. The analysis for this report also included state demographics for the three highest populated states (California, Texas, and New York, ranked respectively) to evaluate and compare with the state demographics for the 16 states with contractor recovery programs.

The effectiveness of any recovery fund must be evaluated from two often opposing perspectives, that of the fund and that of the consumer. The fund's challenge is to stay solvent and the consumer's challenge is to receive appropriate financial compensation for damages.

Effectiveness of Programs

The effectiveness of any recovery fund must be evaluated from two often opposing perspectives, that of the fund and that of the consumer. The fund's challenge is to stay solvent and the consumer's challenge is to receive appropriate financial compensation for damages. Since compensating the consumer is the purpose of establishing a recovery fund in the first place, the fund should indeed be able to compensate the consumer. However, several of the funds reviewed have not been able to accomplish this task while remaining solvent and a large percentage of consumers for various reasons are not being compensated for damages by the existing funds. Having an intermittently functioning or non-functioning recovery fund is an expensive and frustrating exercise for all parties involved. There is the constant struggle to keep revenue even with claims and the potential for continuous litigation.

Balance Between Fund and Consumers

A successful fund must establish and maintain a balance of financial compromises between the fund and the consumer in order to insure the success of the fund and sustain its ability to help the consumer.

A fund also must have definitive requirements, restrictions and limitations along with virtually unlimited revenue resources that remain accessible to the fund.

Typically a successful contractor recovery fund should:

- Have accessibility to all licensed contractors for assessments
- Have the ability to increase contractors' assessment fee as needed
- Limit the time to file a claim (e.g., 2-year statute of limitations)
- Require complainants to obtain a judgment (e.g., last-resort)
- Entitle the Board to determine "actual damages" precluding judgment amount
- Limit the maximum amount of claims paid per complainant (e.g., $20,000)
- Limit the maximum amount of aggregate claims paid per contractor (e.g., $100,000)
- Budget for the fund's operational costs
- Establish safeguards and operational procedures for periods of possible insolvency

A consumer's ideal contractor recovery fund should:

- Not limit the time to file a claim by the act or discovery
- Allow complainants to go directly to the Board for recovery (e.g., first-resort)
- Recover full judgment or correction amount for claim
- Not have imposed maximum limitations on claim amount paid
- Receive payment in a timely manner

Impacts on Funds

The number of typical complaints filed varies dramatically across funds. When a fund is of first-resort (the complainant may go directly to the fund), it is logical that significantly more complaints are filed than when a fund is of last-resort (the complainant must obtain a judgment and exhaust all other resources of payment). Most fund administrators decide the actual damages amount to be paid regardless of a judgment amount; this may account for the large discrepancy of an average claim amount paid and the fund's claim limit amount. Funds may also be critically impacted by events outside the control of the fund. For example, this year two of the largest California vocational schools closed, leaving the Student Tuition Recovery Fund unable to compensate financially injured students. In an effort to protect the damaged students, the Bureau for Private Postsecondary and Vocational Education (BPPVE), who administers the fund, is working with the US Department of Education to discharge most of the unpaid student loans that comprised the bulk of their $8 million potential obligation.

Analysis of Nevada Program

The latest legislated contractor recovery fund was enacted by the state of Nevada in 1999, which is expected to start operation in October of 2001. The Contractor's Board of Nevada requested a review of this legislation by a contractor recovery fund expert. This review reported numerous shortcomings, ambiguities and under-funding in the statutes as created and stated that if specific concerns were not appropriately addressed the fund was predicted to fail.

Conclusion

It is apparent that the challenge of a recovery fund is to remain solvent and functioning in order to compensate the financially damaged consumer. Any such recovery program could be of benefit to at least some consumers under certain criteria. However, every recovery fund program studied displayed some form of financial difficulty.

The consumer knowledge of a recovery fund, its degree of accessibility, and extraneous conditions greatly influence the number of complaints filed against a fund. Therefore, it is essential for the fund administrators to be able to manipulate the fund's limitations, restrictions and regulations to maintain a balanced and stable fund over time.

Based on the Arizona model, a California contractor recovery fund could easily be a $50 million program with additional operational costs in the range of $2-3 million. It was strongly urged by the BPPVE that an actuarial and fiscal analysis should be a background to considering such a fund for California. Regardless of the type and limitations of a newly implemented CSLB fund, it would impose a heavy, unfunded, financial burden on the Board's limited resources. The projected operational cost of $3 million could be put to a more beneficial use.

A nonfunctioning or insolvent contractor recovery fund would give consumers the illusion of protection and actually be more harmful than no fund at all. When a recovery fund is established, it naturally increases consumers' expectations of State protection and decreases consumers' incentive for diligence.

Overall, CSLB would conclude that, after evaluating the recovery fund programs in California and other states, consumers would not be better off with a contractor recovery fund based on any of the studied programs.

When a recovery fund is established, it naturally increases consumers' expectations of State protection and decreases consumers' incentive for diligence.

. . . by studying all the information provided across all the funds reviewed, a generalized and adequate picture of recovery funds was obtainable . . .

Analyzing Recovery Funds

Recovery fund programs in California and other states which provide compensation to consumers for financial injury caused by a licensed professional have been reviewed and evaluated for their effectiveness and the possible benefit a contractor recovery fund could be to California consumers. Recovery fund data was gathered for analysis including state demographics, types of funds, and funds' features. The recovery funds examined all varied in their statutes, regulations, and successes. Some funds' administrators were quite open and comprehensive in providing fund data and anecdotal information, while some provided only minimal information, and others were completely non-communicative. Consequently for each fund, incomplete bits and different types of data were provided to the researchers for review. When analyzing the data, it became clear that, without having the complete picture of a fund, any conclusions drawn could prove to be incorrect. Therefore, with the data provided, it would be inappropriate and misleading to make individual fund evaluations beyond reporting the fund's history, statistics and current status for review. However, by studying all the information provided across all the funds reviewed, a generalized and adequate picture of recovery funds was obtainable for the purpose of this analysis.

General Purpose of Recovery Funds

What all the different recovery funds reviewed have in common is their general purpose. Most recovery funds are legislated through the state for the purpose of monetarily compensating consumers for financial damages that cannot be satisfied through other channels. These funds are usually of last-resort, requiring some form of an unsatisfied court action on behalf of the claimant before a claim would be considered by the fund. If a fund is of first-resort, the claimant may go directly to the fund for compensation. Recovery funds are not established to prevent harm to the consumer (except for lien restrictions) or to directly serve as regulatory enforcement of the respondent, yet disciplinary action may be a prerequisite or consequence and suspension for repayment or revocation is usually mandatory.

Financial Structure of Recovery Funds

A fund receives revenue through fees or surcharges that usually assess the purveyor of services (e.g., contractors). Initially, a fund account accrues assessed revenues for one to two years to reach a legislated minimum balance before the fund may become operational and commence accepting claims. Once the fund is operational, if the fund account falls below its legislated minimum balance, fees or surcharges may be increased to bring the account into balance. When a fund is continually working at a deficit (the annual operating expenses plus the claim payouts are greater than the annual revenue), the fund account will be depleted and the fund will become insolvent if revenue is not increased, claim limits decreased, or operational limitations imposed. Most funds have payout limits on the amount per claim and a total accrued amount per respondent. Claimants must have done business with a fund participant, one who has paid into the fund and is appropriately registered or licensed. There is usually a two to four year statute of limitations for filing a claim from either the date of the act or the date of discovery.

California Recovery Funds

In California there are several recovery funds that have been established to monetarily compensate consumers for financial injury caused by a licensed professional. (See *Table 1* below.)

Real Estate Recovery Fund

The Real Estate Recovery Fund was implemented in 1964 for the purpose of compensating victims of real estate licensee fraud, misrepresentation or deceit. This fund receives revenue from a surcharge (currently 12 percent) on licensee fees and renewals. It is a fund of last-resort; a complainant must have a judgment to file a claim. The fund has a budgeted account and uses excess revenues for non-recovery fund expenditures. The Real Estate Commissioner may authorize the transfer of monies from the Recovery Fund account to the Real Estate Fund account, and vice versa as deemed necessary (*B&P Code, Sect. 10470.1*). Initially claim limitations were $10,000 per transaction and $40,000 aggregate per licensee. In 1980, the limits were increased to a $20,000 claim limit per transaction and a $100,000 aggregate limit per licensee. The claim limits have not been increased since 1980. The initial fund budget was $200,000 to $400,000; the current budget is $2,000,000.

The annual number of claims filed, denied, paid, and percentage paid from 1980 through 2000 do not indicate a predictable pattern. (See *Table 2*.) The only discernable trends are the increase in the average claim payout and consequently the annual average difference between the average claim payout and the unchanged claim limit of $20,000. These are extremely rough figures (comingled with excess revenue

Table 1. California Recovery Funds

NAME OF CALIFORNIA RECOVERY FUND *Governing Entity*	BENEFITS VICTIMS OF	REVENUE SOURCE	START	PERCENT PAID CLAIMS
Real Estate Recovery Fund *Department of Real Estate*	Real estate fraud *(last resort)*	Licensee fees	1985	53%
Client Security Fund *State Bar of California*	Lawyer theft *(first-resort)*	Lawyers fees	1972	54%
Travel Consumer Restitution Fund *Travel Consumer Restitution Corp. (DOJ)*	Travel fraud *(first-resort)*	Sellers of travel fees	1994	32%
Manufactured Home Recovery Fund *Dept. of Housing & Community Dev.*	Home sales fraud *(last-resort)*	Homes sales surcharges %	1985	N/A
Student Tuition Recovery Fund* *Department of Consumer Affairs*	Tuition fraud *(first-resort)*	Student assessments	1989	N/A

**Note: This fund is virtually insolvent.*

expenditures) and are only presented to show the upward drift of claim dollar amounts over time. As can be seen in the last two columns of *Table 2* below, in fiscal year 1989/1990 the average claim payout started exceeding the $20,000 limit per transaction. This trend has continued to date; in fiscal year 1999/2000 the average claim payout was $27,206, or $7,206 over the $20,000 claim limit. The budgeted account balance of $2,000,000 has been exceeded in three of the last five years. Averaged over the last 20 years, the fund has paid 53 percent of claims filed.

The Real Estate Recovery Fund provides a good example of the upward drift of dollar amounts over time. All long-term successful funds must plan for and be able to appropriately adapt to this obvious trend. In *Table 2*, the *Total* row indicates that the number of denied claims and the number of paid out claims over the last 20 years are approximately equal. Since this fund is of last resort, more information would be required to explain why only approximately one-half of the claims are paid.

Table 2. Real Estate Recovery Fund 20-Year Summary

FISCAL YEAR	# CLAIMS FILED	# CLAIMS DENIED	# CLAIMS PAID	% CLAIMS PAID	TOTAL AMOUNT PAID*	MEAN CLAIM AMOUNT*	$20K LIMIT – MEAN CLAIM**
80/81	81	21	51	63%	$260,446	$5,106	$14,893
81/82	111	26	31	28%	$199,738	$6,443	$13,556
82/83	124	44	52	42%	$315,793	$6,072	$13,927
83/84	108	26	62	57%	$859,383	$13,861	$6,138
84/85	214	35	97	45%	$1,618,068	$16,681	$3,318
85/86	228	31	76	33%	$997,218	$13,121	$6,878
86/87	173	23	107	62%	$1,809,525	$16,911	$3,088
87/88	177	89	90	51%	$1,585,950	$17,621	$2,378
88/89	117	99	108	92%	$1,964,529	$18,190	$1,809
89/90	116	132	87	75%	$1,861,149	$21,392	-$1,392
90/91	102	134	56	54%	$1,584,769	$28,813	-$8,813
91/92	122	100	59	48%	$1,121,616	$19,010	$989
92/93	135	58	57	42%	$1,449,077	$25,422	-$5,422
93/94	206	60	78	38%	$1,243,880	$15,947	$4,052
94/95	209	70	60	29%	$1,421,610	$23,693	-$3,693
95/96	205	53	88	43%	$2,236,576	$25,415	-$5,415
96/97	165	71	96	58%	$2,277,661	$23,725	-$3,725
97/98	158	32	106	67%	$2,256,962	$21,292	-$1,292
98/99	154	180	75	49%	$1,533,989	$20,453	-$453
99/00	75	140	63	84%	$1,714,030	$27,206	-$7,206
Total	2,980	1,424	1,499	53%	$28,311,969	$18,318	N/A

*These amounts may contain nonclaim payout monies.

**Exceeded the budgeted account.

Client Security Fund (State Bar)

The Client Security Fund was established in 1972 and operates in conjunction with the State Bar discipline system to assist individual clients who have been financially harmed by the dishonest conduct of their lawyers. The fund reimburses clients who have lost money or property due to theft or an equivalent dishonest act committed by a California lawyer acting in a professional capacity. All lawyers with an active license are assessed up to $40 annually. Even though this is a fund of first-resort, the respondent lawyer must have been disciplined for the crime the claimant is filing against.

In 1999, the Client Security Fund processed 767 claims and paid 387 (50 percent). The fund paid out $2,811,909 or 40 percent of the total filed claim amount of $6,681,000. The claim limit is $50,000, however, the average claim payout in 1999 was only $7,265. The 611 claims filed in 1999 were the lowest number received since 1987. The discipline system was virtually shut down due to the State Bar's fee bill crisis in June of 1998; this critically impacted the Client Security Fund because the discipline system generates most of the fund's business. Funding for the discipline system was restored in February of 1999 and claims gradually started increasing. (See *Table 3*.)

The Client Security Fund demonstrates how an event outside of a fund can critically effect the functioning of the fund. Also, more information would be required to explain why the average claim paid was only $7,398 when the claim limit is $50,000; and again why only about one-half of the claims filed were paid.

Travel Consumer Restitution Corporation

In 1994 the Seller of Travel Law (B&P Code, Sect. 17550.35-17550.59) created a restitution plan for consumers who were financially harmed by a Seller of Travel (SOT). The statutes state that the SOTs are to maintain a corporation under the Nonprofit Mutual Benefit Corporation Law operating under the name of Travel Consumer Restitution Corporation (TCRC). The Board of Directors of the TCRC is composed of six directors: one public consumer, one attorney general, and four SOTs. The TCRC does not maintain a place of operation; program expenditures are budgeted for registration and enforcement activities. Claim processing is contracted out; consumers and SOTs are only provided a fax number for correspondence with and inquiries of the TCRC.

Table 3. Client Security Fund (State Bar) Five-Year Summary

YEAR	# CLAIMS FILED	# CLAIMS PENDING	# CLAIMS CLOSED	# CLAIMS PAID	% CLAIMS PAID	TOTAL CLAIMS PAID	MEAN CLAIM PAID*
1995	1,007	1,197	998	543	54%	$3,229,000	$5,946
1996	1,082	1,236	1,043	578	55%	$5,539,000	$9,583
1997	1,217	1,223	1,230	708	58%	$4,661,000	$6,583
1998*	643	913	1,018	546	54%	$4,159,000	$7,617
1999*	611	758	767	387	50%	$2,811,000	$7,263
Total	4,560	5,327	5,056	2,762	54%	$20,399,000	$7,398

* Years impacted by the bill crisis.

The Department of Justice (DOJ), Attorney General's office has complete authority over the TCRC, oversees the fund, handles enforcement activities, and reports to the legislature on the fund. The fund pays the associated DOJ's operational expenses.

All SOTs must be registered with the TCRC and pay all necessary revenues for the fund. Initially, the fund was required to have a balance of $1.2 million at the first of each year and if the account fell below $900,000 the TCRC was to make an emergency assessment of $200 upon all SOTs. In 1998, the legislature required the fund account to be increased to and maintained at a balance of $1.6 million; the TCRC was authorized to make an annual assessment if the fund falls below this minimum; and the emergency assessment of $200 was to be decreased to $150 if the fund dropped below $900,000. (In December of 1997 the fund balance was below this minimum at $839,834.) SOTs are initially assessed $35 plus an additional $60 per business location annually. In order for a claim to be accepted, the respondent SOT must have been a paid-up participant in the TCRC; and the claimant must have been located in the State of California at the time of the transaction. (See *Table 4.*)

Through December 1, 1997, 825 claims had been filed; 432 (52 percent) claims had been denied; 131 claims were still pending; and 262 (32 percent) claims had been paid. Approximately $566,000 had been paid out in claims. Of the 432 claims that had been denied, the largest number (36 percent) were denied because the claimants were located outside California at the time of the transaction; 26 percent of the claims denied were made against an entity that was not registered and/or was not a TCRC participant.

The TCRC has a very low percentage (32 percent) of actual claims paid; part of this problem is because claimants were not California residents and because respondents were not participants (belonging) to the fund.

Manufactured Home Recovery Fund

The purpose of the Manufactured Home Recovery Fund (MHRF) is to reimburse actual losses up to $75,000 for any person who has sold or purchased a manufactured home/mobile-home for personal or family residential use or investment and who has suffered a loss due to failure to honor warranties or guarantees, fraud, or willful misrepresentation. This is a fund of last-resort. The Occupational Licensing (OL) Program, under the Department of Housing and Community Development (HSC 18070.3) administers the MHRF by collecting fees charged to manufactured housing dealers and salespersons at the time of licensing. Additional revenue is generated for the fund through a fee charged for each sale of a manufactured home.

Table 4. Travel Consumer Restitution Fund (DOJ's Report, 1998)

FISCAL YEAR	FUND FEES	REVENUES	DOJ OPERATING COSTS	FUND BALANCE
1994/1995	$15/$00	$164,736	N/A	$164,736
1995/1996	$15/$00	$646,564	$563,074	N/A
1996/1997	$25/$20	$703,798	$585,943	N/A
(1997/1998)	$35/$60	N/A	Budgeted ($749,000)	N/A
Totals through 1997	N/A	$1,515,098	$1,149,017	$839,834

The OL Program provides information and claim applications to the public regarding the MHRF. Each claim is reviewed or investigated by the program staff. Approved claims are forwarded to the Department's Legal Affairs Division for final approval. Approved claims are then submitted to the State Controller's Office for payment.

Student Tuition Recovery Fund

The Student Tuition Recover Fund (STRF) was established in 1989 by the state to protect any California resident who attends a private post-secondary institution from losing money if the student prepaid tuition and suffered a financial loss as a result of an institution closing, if the institution fails to comply with its enrollment agreement, or refused to pay a court judgment. To be eligible for the STRF, a student must be a California resident. The Bureau for Private Postsecondary and Vocational Education (BPPVE), Department of Consumer Affairs, administers the fund.

The schools actually pay the BPPVE the fees that were assessed per student between $2.50 to $5.50 depending on tuition amounts, one time only. Fees are deposited in one of three accounts: degreed schools, vocational schools, and under $1,000 courses. If any account exceeds its $1 million cap, a fee reduction is mandated. Revenue monies deposited or claim payouts may not cross over accounts. The BPPVE collects just under $1 million annually in STRF quarterly assessments to schools. In any year where there is not a major school closure with resulting claims, the fund may be viable. But the BPPVE reports that there has been no such year. A telling statistic is that the amount of STRF paid by a school in any given year is substantially less than the tuition cost of one student.

Last year's (2000) average claim was $8,600. The fund is currently (2001) holding $8 million total in claims; there is a zero balance in the vocational account with $4 million in claims to be paid; and there is $500,000 in the degreed account also with $4 million in claims to be paid. Two of the largest vocational training schools in the state have recently closed and the fund has received 170 new claims in January and February 2001 (the last months for which information is available) for approximately $10,000 to $14,000 each ($2 million total).

The STRF has not had a fee increase since its implementation. The schools have expressed willingness to increase marginally what they pay into STRF, but that would not be sufficient for the fund. The school association also approached numerous insurance related companies in the last year, and the companies will not touch the issue.

Currently, the BPPVE has been making headway in getting the US Department of Education to discharge most of the unpaid student loans that comprise the bulk of the $8 million potential obligation. A proposed solution, evidenced in current litigation, is to limit access to the fund dramatically by curtailing certain types of court judgments that student's attorneys frequently secure. However, limiting access disenfranchises injured students and the potential for continuous litigation is always a concern.

Summary of California Funds

The reviewed California recovery funds demonstrate some of the problems that can occur with this type of a fund:

- Dollar amounts of all fund-associated monies will naturally drift upward over time causing fixed-legislated values to eventually become inadequate.
- Events outside the control of a fund can critically impact the functioning and solvency of a fund.
- Only one-half or less of the claims filed are being paid by California funds, leaving the other one-half or more claims unpaid.

Therefore, a successful fund needs to:

- Establish statutes providing for adaptation to the natural increase in dollar amounts over time for both revenues and costs.
- Anticipate and create fund safeguards against events outside of the fund's control that could critically impact the fund's solvency.
- Provide clear and comprehensive fund requirements to the consumer for filing and funding a claim and pursuing last-resort resources.

Other States' Contractor Recovery Funds

In the United States, most states, the District of Columbia, and Guam have some type of contractor regulation (legislated by the State) in the form of registration, certification, or licensure. However, only sixteen states have implemented a contractor related recovery fund.

State Contractor Recovery Funds

Table 5 (page 12) lists state-regulated contractor recovery funds. As can be seen in *Table 5*, Hawaii initiated the first state contractor recovery fund in 1974. Since 1994, only the state of Nevada has legislated a new contractor recovery fund. Florida's fund defines the broadest scope of construction damages and may benefit any natural person. Two of these funds, Utah and Michigan's, have lien restrictions protecting the homeowner and lien recovery funds benefiting the trades people. Indiana's fund is limited to plumbing, and New Jersey's is limited to new-home construction warranties (NASCLA, 1999). Twelve of the 15 state funds in existence (80 percent) receive revenue from contractor fees; two (13 percent) from building permit surcharges; and one (7 percent) from new-home sale surcharges.

Inactive or Insolvent State Contractor Funds

Nevada established the Residential Construction Recovery Fund in 1999. The fund account is currently accruing revenue and is expected to become operational in October 2001. The Executive Director of the National Association of State Contractors Licensing Agencies (NASCLA) who is also the certified public accountant for the Arizona Residential Contractors' Recovery Fund was requested by Nevada to review the state's recovery fund statutes. *It was predicted that the fund would fail if specific changes to the fund were not implemented. (See Appendix A.)*

Alabama's and Michigan's fund accounts were both depleted in 1999, and claims cannot be paid until the accounts accrue to their minimum balance. The funds are actively assessing contractors for revenue.

Indiana's fund is limited to plumbing contractors. It was reported that the fund is not publicly well known, and no claims have been filed from 1996 to 1999.

In 1989, the Tennessee Home Improvement Guaranty Fund was established along with the implementation of the Tennessee Home Improvement Commission (licensing entity). The fund required all licensed contractors to post a $5,000 bond made exclusively for the homeowner. The administrator source said, "It was immediately ascertained that the revenue amount was insufficient to handle the claims amount and the administration of the fund was extremely cumbersome and inefficient." In 1991 the fund was discontinued, and replaced by increasing the home improvement bond to $10,000. This bond is made exclusively for homeowners and covers home improvements on residential structures ranging from $3,000 to $25,000 in cost. The source also said, "This change has released the Commission from the burden of administering the fund, and placed it in the hands of the insurance companies."

Table 5. State Contractor Recovery Funds (NASCLA, 1999)

STATE	START	RECOVERY FUND (RF) NAME *Governing Entity*	BENEFICIARY	REVENUE SOURCE
Nevada*	2001	Residential Construction RF *State Contractors Board*	Homeowners	Contractors
Utah	1994	Residence Lien RF *Division of Occup./Prof. Licensing*	All parties	Contractors/Suppliers
Alabama*	1993	Home Building & Improvement RF *Home Builders Licensure Board*	Homeowners	Contractors
Florida	1993	Florida Construction Industries RF *Construction Industry Licensing Bd.*	Natural Persons	Building Permits
Minnesota	1993	Contractor's RF *Commissioner, State Treasury*	Homeowners	Contractors
Massachusetts	1992	Residential Contractor's Guaranty F *Building Regs. and Standards Board*	Homeowners	Contractors
N. Carolina	1991	Homeowners RF *State Licensing Board*	Homeowners	Building Permits
Connecticut	1989	Home Improvement Guaranty F *The Commissioner*	Homeowner	Contractors
Tennessee** *(Dissolved)*	1989	Home Improvement Guaranty F *Home Improvement Commission*	Homeowners	Insufficient
Indiana*	1988	Plumbers RF *The Plumbing Commission*	Any Persons	Plumbers
Maryland	1985	Home Improvement Guaranty F *The Home Improvement Commission*	Homeowners	Contractors
Michigan*	1982	Homeowner Construction Lien RF *Dir. of Licensing and Regulations*	All parties	Contractors
Arizona	1981	Residential Contractors' RF *The Registrar of Licensing Board*	Homeowners	Contractors
Virginia	1980	Virginia Contractor Transaction RF *Board for Contractors*	Homeowners	Contractors
New Jersey	1979	New Home Warranty Security F *Dept. of Community Affairs*	Homeowners	Home Sales
Hawaii	1974	Contractors RF *Contractors License Board*	Homeowners	Contractors

* Not actively paying out claims.
** Dissolved after two years in 1991.

States' Demographics

In the U.S., California, Texas, and New York are the three top-ranking states in overall population, respectively. None of these states has a state-administered contractor-related recovery fund. California has extensive state contractor regulation, Texas has limited state contractor regulation, and New York virtually has none.

California has the Contractors State License Board regulating contractors grouped into approximately 45 classifications and certifications.

Texas has the Department of Licensing and Regulation, Air Conditioning and Refrigeration Licensing Section, regulating air conditioning and refrigeration contractors; the Department of Transportation regulating highway construction contractors; the State Board of Plumbing Examiners, regulating plumbers; the Texas Department of Insurance, State Fire Marshal's Office regulating fire alarm, fire extinguisher and fire sprinkler contractors; the Railroad Commission, regulating LPG/ propane contractors; and the National Resource Conservation Commission, regulating water well drilling and pump equipment contractors.

New York has no state regulation for public or private construction work, except for asbestos handling, enforced by the State Department of Labor, Division of Safety and Health. (NASCLA, 1999.) However, the City of New York does license contractors and mandates the Home Improvement Business Trust Fund. The fund was established in 1991 to provide for the payment of outstanding awards to aggrieved consumers and fines owed to the Department of Consumer Affairs. The Comptroller of the City of New York administers the fund. A contractor is required to pay $200 at licensure and $200 at each two-year renewal or maintain a $20,000 bond. New York City's fund is one of first-resort, but there is a $20,000 claim limit, the respondent contractor must be in violation of the law, and his license must be revoked for invasion of the fund.

The demographics of a state will be a factor in any state regulated recovery fund, if only for volume of activity alone. In *Table 6* (see page 14), state demographics are presented for the states with contractor recovery funds for review.

Possible Demographic Influences on Recovery Funds

The make-up of a recovery fund may be influenced or driven by the pertinent demographic conditions of the state. The three top-ranking states in population do not have state regulated contractor recovery funds. The two most highly-populated states with contractor recovery fund programs are Florida and Michigan. Florida has the highest volume of new housing permits in the nation (see *Table 6*), and its program is one of only two funded by surcharges on building permits, not contractors. Michigan's fund is a lien recovery program, and provides for lien restriction protection for the homeowner. Interestingly, the only two states (Michigan and Utah) with exclusive homeowner lien restrictions and lien recovery funds have a high percentage (74 percent) of homeowners per capita. (See *Table 6*.)

Nevada is the first state to implement a residential recovery fund since 1994, and is ranked first in the nation for growth. As can be seen in *Table 6*, Nevada has had a staggering increase in population from 1990 to 1999 by 51 percent.[1] The number of new housing permits in Nevada for 1999 has a ratio per capita of 1:50. Whereas Florida,

1 The U.S. Census 2000 ranks Nevada 1st in the nation for growth from 1990 to 2000 with a 66.3 percent increase in population.

Table 6. States' Demographics (U.S. Census, 1999)[2]

STATE WITH CONTRACTOR RECOVERY FUNDS	1999 POPULATION IN MILLIONS/ US RANK		POPULATION CHANGE FROM 1990-1999	HOUSING UNIT PERMITS 1999	MEDIAN HOUSEHOLD INCOME / US RANK		PERCENTAGE OF HOME OWNERSHIP 1998 / US RANK / MILLIONS		
California*	34.0	1	11.2%	138,039	$41,000	16	56%	48	19.0
Texas**	20.1	2	18.0%	146,564	$36,000	36	63%	44	12.7
New York**	18.2	3	1.1%	42,593	$37,000	27	53%	49	9.7
Florida	15.2	4	16.8%	164,722	$35,000	39	67%	34	10.2
Michigan	10.0	8	6.1%	54,257	$42,000	13	74%	7	7.4
New Jersey	8.2	9	5.1%	31,976	$50,000	3	63%	43	5.2
N. Carolina	7.7	11	15.4%	84,754	$36,000	35	71%	14	5.5
Virginia	6.9	12	11.0%	53,151	$43,000	10	69%	26	4.8
Massachusetts	6.2	13	2.6%	18,967	$42,000	12	61%	46	3.8
Indiana	6.0	14	9.7%	41,469	$39,000	21	71%	11	4.3
Tennessee	5.5	16	12.4%	37,034	$34,000	40	71%	14	3.9
Maryland	5.2	19	8.2%	29,757	$50,000	2	69%	29	3.6
Arizona	5.0	20	30.4%	65,109	$37,000	28	64%	41	3.2
Minnesota	4.8	21	9.1%	33,341	$48,000	4	75%	2	3.6
Alabama	4.5	23	8.2%	19,029	$36,000	33	73%	10	3.3
Connecticut	3.3	29	-0.2%	10,637	$46,000	7	69%	27	2.3
Utah	2.2	34	23.6%	20,455	$44,000	9	74%	9	1.6
Nevada	2.0	35	50.6%	32,643	$40,000	20	61%	45	1.2
Hawaii	1.2	42	7.0%	4,211	$41,000	17	53%	49	0.6

* California, ranked 1st in population, has been estimated to have 40 million people by the year 2010. Using the 1998 percentage of homeownership (56 percent), it can be estimated there will be 22.4 million homeowners by 2010.

** Texas and New York are ranked second and third highest in population, and are presented only for comparison to California.

2 The U.S. Census 2000 results will be released on the Internet at various stages starting Spring 2001. Three population tables were released April 2, 2001 and are presented in *Appendix B*. (*1. States Ranked by Population; 2. States Ranked by Numeric Population Change: 1990 to 2000;* and *3. States Ranked by Percent Population Change: 1990 to 2000.*)

with the nation's highest volume of new housing permits, has a ratio of 1:100 per capita; Arizona,[3] ranked second in growth, also has a ratio of 1:100. For comparison, California's ratio of new housing permits per capita is only 1:400 and its growth increase for 1990-1999 was only 11.2 percent. (See *Table 6*.)

The implementation of a state-regulated contractor recovery fund does not appear to be correlated with the actual size of the state's population. However, further research may show that a state's proportional growth rate may be correlated to the implementation of such a fund.

Types of Contractor Recovery Funds

The contractor related recovery funds researched fell into four general types of recovery funds. These types of funds are represented in *Table 7* (see page 16) as examples for comparison.

Arizona's Residential Contractors' Recovery Fund

The Arizona Residential Contractors' Recovery Fund was established by the Arizona State Legislature in 1981 and is administered by the Registrar of Contractors. At the time of implementation, every residential contractor was assessed $75, and the coverage under the fund was limited to $5,000 per claimant with a maximum liability of $10,000 per contractor. Currently, the initial contractor assessment is $300 with a biennial renewal fee of $260, and the coverage is limited to $20,000 per claimant and $100,000 per contractor. (See *Table 7.*)

Historically from 1981 to 1999, Arizona contractors had paid $26,714,567 into the Contractors' Recovery Fund and $25,882,664 had been paid out on 5,725 claims with an eighteen-year average of $4,520 per claim. The difference between total revenue and total payouts was $831,903. Respondent contractors had repaid $2,929,025 (11.3 percent) and $120,072 had been recovered from license bonds. Accordingly, from 1981 to 1999 the fund had a total of $3,881,000 to finance operating expenses, or averaged over eighteen years, $215,611 a year. Arizona's operating expenses for 1999 totaled $399,488 and for 2000 totaled $521,326. (See *Appendix C.*)

The Arizona fund is the most consumer-friendly fund—as a *first-resort*, under certain conditions, the homeowner may go directly to the Registrar for recovery if the contractor's license has been revoked or has been suspended as a result of an order to remedy a violation. However, if the contractor maintains a valid license or has given notice of bankruptcy, the plaintiff must file a civil action and pursue all bonds in effect as with a last-resort fund. Upon filing the lawsuit, written notice must be given to the registrar, who may intervene at any time.

It should be noted that according to the 1999 annual data provided in *Table 7*, the Arizona fund appears to be operating within its limits; however, additional data provided by the fund administrators shows that the fund has been operating with a deficit. The Arizona fund is being managed and has operated with an accumulated deficit of $5,193,756 at year-end for 1999 and $3,886,371 at year-end for 2000. Arizona provided the most complete fund information of any fund review in this study. (*See Appendix D.*)

3 The U.S. Census 2000 ranks Arizona 2nd in the nation for growth from 1990 to 2000 with a 40.0% increase in population.

Table 7. Fund Comparisons by Contractor Recovery Types (NASCLA, 1999; U.S. Census, 1999.)

TYPE OF FUND: *State:*	RESIDENTIAL *Arizona*	ALL CONSTRUCTION *Florida*	RESIDENTIAL LIENS *Michigan*	NEW HOME-WARRANTIES *New Jersey*
FUNDS				
Beneficiary	Homeowner	Natural Persons	All parties*	Homeowner
Started	1981	1993	1982	1979
Funding in 1999	Yes	Yes	No	Yes
DEMOGRAPHICS				
U.S. Ranked/Pop	20th (5 mil)	4th (15.2 mil)	8th (10 mil)	9th (8.2 mil)
Pop. 1990-1999	30.4% increase[3]	16.8% increase[4]	6.1% increase	5.1% increase
House Permits 1999	65,109 units	164,722 units	54,257 units	31,976 units
Median Income	$37,000	$35,000	$42,000	$50,000
Homeownership	64% (3.2 mil)	67% (10.2 mil)	74% (7.4 mil)	63% (5.2)
CLAIMS				
Resort	First/last-resort	Last-resort	Last-resort	Insured
Time from Act	2 yrs	2 years	N/A	1,2 & 10 yrs
Time /Discovery	N/A	2 yrs (<4yrs)	N/A	Warranties
Fund Participant	Required	Required	Required	Required
Action on Contractor	Suspended	Suspended	Disciplined	Premium %
Claim Limit	$20,000	$25,000	$75,000 per res.	Purchase Price
Contractor Limit	$100,000	$50,000	N/A	N/A
Filed FY 98/99	684	185	174	600-700
Paid FY 98/99	456	72	(24) N/A	120-140
% Paid FY 98/99	67%	39%	(14%) N/A	20%
Mean paid FY 98/99	$6,219	$13,648	($43K) N/A	$35,714
REVENUES				
Source	Contractors	Bldg Permits/Fines	Contractors	Builder/Sales
Initial fee	$300	$.005 sq.ft. permits	$50	.2%-.8% Sales
Annual fee	$130	Contractor fines	$50	$100
Receipts FY 98/99	$4,245,704	$1,270,182	$413,000	N/A
Payouts FY 98/99	$2,836,050	$982,656	$1,046,000	$5,000,000
Fund Balance 1999	$4,674,973	$851,000	$13,000	N/A
Minimum Balance	$100,000/claims	80% pending claim	$1,000,000	Per Claims
Fee increase	As required	Rejects new claims	$50	As required

*Only purveyors of services and materials may file a claim. The homeowner may prevent a lien from being attached by providing proof of payment.

3 The U.S. Census 2000 ranks Arizona 2nd in the nation for growth from 1990 to 2000 with a 40.0% increase in population.
4 The U.S. Census 2000 ranks Florida 7th in the nation for growth from 1990 to 2000 with a 23.5% increase in population.

Arizona's fund demonstrates that a properly-designed and well-managed fund will still have problems. The fund has been functioning with multi-million dollar deficits. The average claim paid of $6,219 is remarkably below the $20,000 claim limit, but the fund pays out the highest percentage of claims (67 percent) of any fund reviewed. Also, this fund receives an unusually high rate of claims.

Florida's Construction Industries Recovery Fund

The Florida Construction Industries Recovery Fund was created to protect individuals from liens, violations of building codes, financial harm caused by mismanagement, or abandonment of a construction project, and is administered by the Construction Industry Licensing Board. The fund is effective for violations occurring after July 1, 1993. From 1993 to 1999 (6 years) the fund paid out $3,250,615 on 239 claims with a six-year average of $13,600 a claim. Payouts will only be made as a *last-resort,* upon court order or on an order to pay restitution from the board after all other available remedies and assets of the contractor have been exhausted. Florida's fund receives its revenue from a surcharge on building permits by $0.005 a square foot and surplus monies from board-imposed contractor fines. If at any time the claims pending against the fund exceed 80 percent of the fund balance plus anticipated revenue for the next two quarters, the board will not accept new claims until the legislature authorizes funding.

Because Florida may reject claims if the fund's balance drops below the minimum balance, it is impossible to evaluate the effectiveness of this fund without further information. Florida also does not pay out a very high average claim ($13,000) with a $25,000 limit and pays on only 39 percent of the claims reported filed.

Possible Effects of First-Resort or Last-Resort Funds

When comparing Arizona's and Florida's funds, the difference is dramatic. Arizona paid 67 percent of filed claims in 1999, and Florida paid only 39 percent. Florida had approximately 10.2 million homeowners and received 185 claims in 1999, or 0.00002 percent of the homeowners filed a claim. Arizona had approximately 3.2 million homeowners and received 684 claims, or 0.0002 percent of the homeowners filed a claim. Proportionally speaking, Arizona's fund received 10 times more claims per capita (homeowner) than Florida. (See *Table 3*.) Possible reasons for such a difference in claims paid and claims filed could be the effects of a first-resort fund vs. a last-resort fund; a fund's financial ability to accept all filed claims, and sources of revenue.

Michigan's Homeowner Construction Lien Recovery Fund

The Michigan Homeowner Construction Lien Recovery Fund's mandatory account with a minimum of $1,000,000 was virtually depleted (balance of $13,000) in 1999. (See *Table 7*.) Previously in fiscal year 1995/1996, Michigan received $443,000 in revenue and 147 claims. Twenty-one (14 percent) of those claims were paid, totaling $915,000 or an average of $43,571 per claim. It is not known why the average claim paid is so much higher than any other fund's average claim paid or why the percentage of claims paid is so low. Three years later in fiscal year 1998/1999, Michigan received $413,000 in revenue and 174 claims. The number of claims paid is not available (estimated 24 at 14 percent), but $1,046,000 was paid out, leaving the fund balance at $13,000. Michigan's claim limit for its lien recovery fund is $75,000 per residence. The fund is currently assessing contractors for the fund account.

It is not known if the high average claim paid ($43,571) is a contributor to the fund's insolvency and how it plays into the extremely low percentage (14%) of claims paid. Regardless, the numbers didn't balance out and the fund is insolvent.

New Jersey's New Home Warranty Security Fund

New Jersey's New Home Warranty Security Fund is not a true contractor recovery fund, but a warranty program. The state of New Jersey registers all new-home builders and licenses only electrical and plumbing contractors. New-home builders must register with the state and pay a $200 biennial fee, but may choose the state's warranty plan or an alternative new-home warranty plan. There are no recovery programs associated with the licensed contractors or home improvement. Since New Jersey's New Home Warranty Security Fund does not process all the statewide new-home warranty claims, only data from those claims filed with this fund are available. Because of the uniqueness of this program and incomplete statewide data, financial fund data was not presented in NASCLA's 1996 or 1999 Contractor Recovery Fund Reports. (See *Appendix C.*)

The New Jersey new-home builders who purchase 1, 2, and 10-year new-home warranties from the state's fund pay a premium of 0.2 percent to 0.8 percent on their new-home sales based on their claim history. There are no dollar amount limitations on the claim or on the contractor; claim amounts may be made up to the sales price of the residence. There is no mandatory account balance, however, currently the fund maintains a balance between $30 and $40 million; this operates more like an insurance program than a recovery program. The annual payout is approximately $5,000,000, thus an average claim would be approximately $36,000. The fund has been paying approximately 20 percent of warranty claims filed. (See *Table 7.*)

California Contractor Recovery Fund Models

For illustration purposes, the data for two functioning state recovery funds has been applied to California's demographic data to describe two California fund models for consideration. Arizona's Residential Contractors' Recovery Fund and Utah's Residence Lien Recovery Fund were selected as examples for this purpose. (See *Table 8*.)

Arizona's Residential Contractors' Recovery Fund Model

The Arizona Residential Contractors' Recovery Fund was established to cover claims against licensed contractors made by any homeowner. (See Arizona's Residential Contractors' Recovery Fund for more details.) The effect of the fund has been to make more money available to satisfy consumer losses. Unlike the regular license bond, the recovery fund is not subject to claims by suppliers, subcontractors, laborers or others. (Arizona law prohibits construction liens on residences.)

Arizona requires contractors to file a bond in the amount required by the Board's license classification, license type of commercial, residential or dual, and anticipated annual gross volume. For residential contractors, bond amounts range from $1,000 to $15,000. In addition to the contractor license bond, a residential contractor must pay into the Contractors' Recovery Fund or provide a consumer protection bond in the amount of $100,000. (See *Appendix E*.)

Utah's Residence Lien Restriction and Lien Recovery Fund Model

In 1994, the Utah Legislature passed the Residence Lien Restriction and Lien Recovery Fund Act and authorized the Division of Occupational and Professional Licensing to administer this Act. In 1995, the Division began assessing existing contractors, licensed professionals, suppliers, and new contractor applicants to fund the account. The Act was amended and funded in 1995, was amended again in 1996, 1997, and 1998. The Act (Residence Lien Restriction) protects the responsible homeowner by prohibiting anyone who provides services or materials for residential housing construction from either maintaining a mechanics' lien against a residence or obtaining a civil judgment against the homeowner for construction expenses, provided the homeowner has a written contract with a licensed contractor and has paid the contract in full. The Act also creates the Residence Lien Recovery Fund as a last-resort source of payment for persons, including subcontractors, suppliers, and laborers, who can no longer recover for goods and services by bringing mechanics' liens against residential property or by bringing civil action against the homeowner.

Utah requires contractor applicants to submit extensive documentation with their applications, including a "Certificate of Insurance" by the applicant's public liability insurance carrier for coverage of $100,000 for each incident and $300,000 in total. Utah does not require a contractor bond. Also, Utah does not designate individual contractors as commercial or residential—only certain classifications are considered residential exempt. (See *Appendix F*.)

Joining the Utah fund is mandatory for all applicants and licensed contractors in classifications that regularly engage in providing services for residential construction ($195 fund fee). Exempt contractors *may* join the fund. Other licensed professionals or

Table 8. California Models, Based on Arizona's and Utah's Recovery Funds

TYPE OF FUND *Model*	RESIDENTIAL CONSTRUCTION *Arizona (1999)*	RESIDENTIAL CONSTRUCTION *California Model*	RESIDENTIAL LIENS *Utah (2000)*	RESIDENTIAL LIENS *California Model*
FUNDS				
Beneficiary	Homeowner	Homeowner	All parties*	All parties*
Started	1981	Model	1994	Model
Currently Funding	Yes	N/A	Yes	N/A
DEMOGRAPHICS '99				
U.S. Ranked/Pop	20th (5 mil)	1st (34.0)	34th (2.2 mil)	1st (34.0)
Pop. 1990-1999	30.4% increase[3]	11.2% increase	23.6% increase	11.2% increase
House Permits	65,109 units	138,039 units	20,455 units	138,039 units
Median Income	$37,000	$41,000	$44,000	$41,000
Homeownership	64% (3.2 mil)	56% (19.0 mil)	74% (1.6 mil)	56% (19.0 mil)
HO/Claim Factor**	0.0002	0.0002	0.0001	0.0001
CLAIMS				
Resort	First/last-resort	First/last resort	Last-resort	Last-resort
Time from Act	2 yrs	2 years	180 days	180 days
Time from Judgment	N/A	N/A	120 days	120 days
Fund Participant	Required	Required	Required	Required
Claim filing fee	None	None	$75	$75
Action on Contractor	Suspended	Suspended	Disciplinary	Disciplinary
Claim Limit	$20,000	$20,000	$75,000 per res	$75,000 per res
Contractor Limit	$100,000	$100,000	$500,000 life	$500,000 life
Filed	684	(3,800)	254	(1,900)
Paid	456	(2,546)	96	(722)
% Paid	67%	67%	38%	38%
Mean paid	$6,219	$6,219	$4,050	$4,050
REVENUES				
Source	Contractors	(150K)Contractors	All parties*	All parties*
Initial fee	$300	($200)	$195	$195
Annual fee	$130	($200)	As required	As required
Processing fee	None	None	$25	$25
Receipts	$4,245,704	($30,000,000)	N/A	N/A
Payouts	$2,836,050	($15,833,574)	$388,828	($2,924,100)
Fund Balance	$4,674,973	N/A	$2,652,324	N/A
Minimum Balance	$100,000/claims	(Unknown)	$1.5-2.5 mil	(Unknown)
Fee increase	As required	As required	As required	As required
OPERATING COSTS				
Annual	$400,000	($2,223,000)	N/A	N/A
(Per filed claim)	($585)	($585)	N/A	N/A

* Note: All parties to the contract including contractors, suppliers, laborers, and associated professionals. Homeowners have lien protection, not fund invasion.

** Note: HO/Claim Factor is the percentage of homeowners who filed a claim (state's number of annual claims filed, divided by the homeowner population). For modeling purposes, California's homeowner population was multiplied by this factor for a probability estimate of claims filed.

[3] The U.S. Census 2000 ranks Arizona second in the nation for growth from 1990 to 2000, with a **40%** increase in population.

suppliers, including architects, professional engineers, land surveyors, certified structural engineers, and landscape architects who provide goods or services for residential housing construction *may* join the fund ($195 fund plus $25 processing fees). Laborers are *not* required to be registered with the fund, but may access the fund by paying a $15 filing fee and paying a $20 payment assessment fee.

To file a claim against the fund, a judgment or a notice of bankruptcy must have been filed within 180 days from the date the claimant last provided qualified services. Also, the claim must be filed within 120 days from the previous dates whichever occurs first.

As of January 31, 2001 (six years), 890 claims have been filed. Of these claims:

- 729 have been resolved;
- 14 are pending claimant response;
- 2 are pending prosecutor review;
- 48 are prolonged;
- 14 are pending Board approval; and
- 13 are pending Division review.

The fund has paid out $1,911,664 total in claims, and currently has $2,652,324 in the fund investment account and $333,832 in the fund operating account. In 2000:

- 254 claims were filed;
- 96 claims were paid;
- 44 claims were denied; and
- 21 claims were withdrawn.

Using these figures, the fund paid out only 38 percent of the claims filed in 2000.

California Contractor Recovery Fund Models

When comparing California probability values in *Table 8*, it is essential to remember that the two fund models are quite different programs. Arizona's is a first-resort recovery fund for consumers damage by contractors. Utah's is a lien restriction act protecting consumers and a last-resort lien recovery fund for trades people. There is a significant difference between these two programs in the percentage of claims filed (*HO/Claim Factor, Table 8*). However, with differences acknowledged, Arizona still pays out 67 percent of claims filed and Utah pays out only 38 percent of claims filed.

Table 8 shows an estimate that California, using Arizona's model, could pay out approximately $15.8 million in claims based on 1999 data. If, as the U.S. Census predicts, California has a homeowner population of 22.4 million in 2010, then it is probable that 4480 claims could be filed against a recovery fund. If in 2010, the average claim paid amount was $15,000 the total claims payout at 67 percent could be *$45,024,000.*

Conclusion

It is apparent that the challenge of a recovery fund is to remain solvent and functioning in order to compensate the financially damaged consumer. Any such recovery program could be of benefit to at least some consumers under certain criteria. However, every recovery fund program studied displayed some form of financial difficulty.

The consumer knowledge of a recovery fund, its degree of accessibility, and extraneous conditions greatly influence the number of complaints filed against a fund. Therefore, it is essential for the fund administrators to be able to manipulate the fund's limitations, restrictions and regulations to maintain a balanced and stable fund over time.

Based on the Arizona model, a California contractor recovery fund could easily be a $50 million program with additional operational costs in the range of $2-3 million. It was strongly urged by the BPPVE that an actuarial and fiscal analysis should be a background to considering such a fund for California. Regardless of the type and limitations of a newly implemented CSLB fund, it would impose a heavy, unfunded, financial burden on the Board's limited resources. The projected operational cost of $3 million could be put to a more beneficial use.

A nonfunctioning or insolvent contractor recovery fund would give consumers the illusion of protection and actually be more harmful than no fund at all. When a recovery fund is established, it naturally increases consumers' expectations of State protection and decreases consumers' incentive for diligence.

Overall, CSLB would conclude that, after evaluating the recovery fund programs in California and other states, consumers would not be better off with a contractor recovery fund based on any of the studied programs.

. . . a nonfunctioning or insolvent recovery fund would give consumers the illusion of protection but actually be more harmful than no fund at all.

NASCLA | National Association of State Contractor's Licensing Agencies

August 20, 1999

Margi Grein, Executive Officer
Nevada Contractors Board
4220 South Maryland Parkway
Building D, Suite 800
Las Vegas, Nevada 89119

Re: Assembly Bill Number 636

Dear Margi:

Per your request, I have reviewed the above captioned legislation establishing a contractors recovery fund for contractors. My overall assessment of this fund as created by AB 636 is that it is destined to fail as written due to numerous shortcomings, ambiguities and under funding.

Specific concerns that I have regarding the new fund are as follows:

Section 4 "Injured person". A definition of "adequately" was not found. A clarification of this term would help avoid future disagreements as to what is covered.

Section 5 "Owner". The definition precludes owners of condos, townhouses, duplexes and the like for an unexplained reason. Also the language would seem to require the ownership of an existing residence as a prior condition to entering into a contract that would be covered by the fund. This may preclude coverage of new home construction. Also, purchasing a home from a corporate developer (not the contractor or a natural person) may not qualify for coverage.

Section 6 "Qualified services". This definition would seem to require the residence to be occupied by the owner before contracting for any work that would be covered by the fund. This again would seem to preclude new construction.

Section 7 "Residential contractor". This section limits the number of licensees required to pay into the fund to those contracting directly with the owner. All others (subcontractors), even though contributing to the potential fund liability, are not required to pay the required premiums. This also contributes to a policing problem of identifying those specialty contractors who are acting as prime contractors in addition to being subs. This definition is also consist with prior sections that seem to preclude new construction in defining a residential contractor as some one "... who contracts with the owner of a single family residence ..."

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indicating an existing structure.

Section 9.1 Considering the limitation to assessing prime contractors only, the fee structure seems low considering the coverages offered (ignoring the new construction issue). In Arizona, all contractors able to contract for residential work are assessed $300 initially and an average of $100 annually for a fund that has a statute of limitation one half of this fund, an individual payout limit one third less and an overall contractor exposure of one half.

Section 9.3 The suspension of assessment collections is based on a cash balance without taking into consideration any fund liabilities (see section 14.1 comments).

Section 10 A four year statute of limitations seems excessive especially considering the wide open "adequately" performance criteria. A definition of completion would be helpful (do subsequent repairs extent the statute of limitations, for example).

Section 11 Together with section 13.3(b) this section seems to preclude any determination by the board of actual damages payable by the fund. In other words, default judgments presented to the board (assuming eligibility criteria met) could not be questioned as to the validity of the actual damage amount included in the judgment.

Section 13.3(a) The method to determine "actual damages" should be defined. The individual recovery limit seems high especially in light of the base of contractors contributing to the fund.

Section 13.4 This seems to limit the board's discretion on pay outs to the eligibility of the claimant only (see section 13.2). Claimed "actual damages" could not be contested.

Section 13.7 As noted above regarding the individual limit, the contractor limit also seems high considering the premium base.

Section 14.1 Fund financials are required based on generally accepted accounting principles which would require accrual basis statements showing claim reserves. This would seem to be in contradiction to other sections (9.3 and 15) requiring the maintaining of a cash basis fund. Why report on the accrual basis if the fund is to be a cash basis fund?

Section 15.5.2 As the fine is no more than the annual assessment, it would likely encourage contractors to bypass the assessment and bet on not getting caught. This approach might be attractive to speciality contractors that do very little prime contracting with a low probability of detection.

I believe that the problems noted above can be corrected and a viable contractor's recovery fund established. General recommendations to resolve the fund's shortcomings are as follows:

1. Set reasonable initial individual and contractor coverage limits; increases can come later .

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when the stability of the fund is established. Arizona started its fund at $5,000 per claimant and $10,000 per contractor in 1981.

2. Maximize the premium base. All contractors working on residential projects should pay into the fund, not just prime contractors. All contractors contribute to the potential future liability. Non contributing contractors may have to have their license and pocket cards annotated with "commercial only" indicating the inability to do residential work under that license. Penalties for residential contracting without participating in the recovery should be the same as contracting without a license regardless of the existence of a "commercial only" license.

3. Include coverage for new construction as well as other individually owned residential dwellings (townhouses, condos, etc.).

4. Provide for administrative determination of actual damages regardless of the existence of a judgment. The board would determine what was "payable" on the claim, not the judgment.

5. Clarify the accounting treatment for the fund. It is unlikely that accrual basis accounting is necessary.

6. Reconsider the current statute of limitations a claimant has to file a claim against the fund. Going from two to four years increases the fund's exposure dramatically.

I hope these comments will help aluminate the fund's weaknesses and provide the basis for improving this worthwhile endeavor.

Sincerely,

Stephen P. Schmidt
Executive Director

cc: Nancy Mathias

Census 2000 PHC-T-2. Ranking Tables for States: 1990 and 2000
Table 1. States Ranked by Population: 2000

Source: U.S. Census Bureau, Census 2000 Redistricting Data (P.L. 94-171) Summary File and 1990 Census.
Internet Release date: April 2, 2001
Note: 1990 populations shown in this table were originally published in 1990 Census reports and do not include subsequent revisions due to boundary or other changes.

Rank	Area	Census Population		Change, 1990 to 2000	
		April 1, 2000	April 1, 1990	Numeric	Percent
1	California	33,871,648	29,760,021	4,111,627	13.8
2	Texas	20,851,820	16,986,510	3,865,310	22.8
3	New York	18,976,457	17,990,455	986,002	5.5
4	Florida	15,982,378	12,937,926	3,044,452	23.5
5	Illinois	12,419,293	11,430,602	988,691	8.6
6	Pennsylvania	12,281,054	11,881,643	399,411	3.4
7	Ohio	11,353,140	10,847,115	506,025	4.7
8	Michigan	9,938,444	9,295,297	643,147	6.9
9	New Jersey	8,414,350	7,730,188	684,162	8.9
10	Georgia	8,186,453	6,478,216	1,708,237	26.4
11	North Carolina	8,049,313	6,628,637	1,420,676	21.4
12	Virginia	7,078,515	6,187,358	891,157	14.4
13	Massachusetts	6,349,097	6,016,425	332,672	5.5
14	Indiana	6,080,485	5,544,159	536,326	9.7
15	Washington	5,894,121	4,866,692	1,027,429	21.1
16	Tennessee	5,689,283	4,877,185	812,098	16.7
17	Missouri	5,595,211	5,117,073	478,138	9.3
18	Wisconsin	5,363,675	4,891,769	471,906	9.6
19	Maryland	5,296,486	4,781,468	515,018	10.8
20	Arizona	5,130,632	3,665,228	1,465,404	40.0
21	Minnesota	4,919,479	4,375,099	544,380	12.4
22	Louisiana	4,468,976	4,219,973	249,003	5.9
23	Alabama	4,447,100	4,040,587	406,513	10.1
24	Colorado	4,301,261	3,294,394	1,006,867	30.6
25	Kentucky	4,041,769	3,685,296	356,473	9.7
26	South Carolina	4,012,012	3,486,703	525,309	15.1
27	Oklahoma	3,450,654	3,145,585	305,069	9.7
28	Oregon	3,421,399	2,842,321	579,078	20.4
29	Connecticut	3,405,565	3,287,116	118,449	3.6
30	Iowa	2,926,324	2,776,755	149,569	5.4
31	Mississippi	2,844,658	2,573,216	271,442	10.5
32	Kansas	2,688,418	2,477,574	210,844	8.5
33	Arkansas	2,673,400	2,350,725	322,675	13.7
34	Utah	2,233,169	1,722,850	510,319	29.6
35	Nevada	1,998,257	1,201,833	796,424	66.3
36	New Mexico	1,819,046	1,515,069	303,977	20.1
37	West Virginia	1,808,344	1,793,477	14,867	0.8
38	Nebraska	1,711,263	1,578,385	132,878	8.4
39	Idaho	1,293,953	1,006,749	287,204	28.5
40	Maine	1,274,923	1,227,928	46,995	3.8
41	New Hampshire	1,235,786	1,109,252	126,534	11.4
42	Hawaii	1,211,537	1,108,229	103,308	9.3
43	Rhode Island	1,048,319	1,003,464	44,855	4.5
44	Montana	902,195	799,065	103,130	12.9
45	Delaware	783,600	666,168	117,432	17.6
46	South Dakota	754,844	696,004	58,840	8.5
47	North Dakota	642,200	638,800	3,400	0.5
48	Alaska	626,932	550,043	76,889	14.0
49	Vermont	608,827	562,758	46,069	8.2
(NA)	District of Columbia	572,059	606,900	-34,841	-5.7
50	Wyoming	493,782	453,588	40,194	8.9
(NA)	United States	281,421,906	248,709,873	32,712,033	13.2

Table 2. States Ranked by Numeric Population Change: 1990 to 2000

Census 2000 PHC-T-2. Ranking Tables for States: 1990 and 2000
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Note: 1990 populations shown in this table were originally published in 1990 Census reports and do not include subsequent revisions due to boundary or other changes.

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18	Indiana	6,080,485	5,544,159	536,326	9.7
19	South Carolina	4,012,012	3,486,703	525,309	15.1
20	Maryland	5,296,486	4,781,468	515,018	10.8
21	Utah	2,233,169	1,722,850	510,319	29.6
22	Ohio	11,353,140	10,847,115	506,025	4.7
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31	New Mexico	1,819,046	1,515,069	303,977	20.1
32	Idaho	1,293,953	1,006,749	287,204	28.5
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38	New Hampshire	1,235,786	1,109,252	126,534	11.4
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40	Delaware	783,600	666,168	117,432	17.6
41	Hawaii	1,211,537	1,108,229	103,308	9.3
42	Montana	902,195	799,065	103,130	12.9
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48	Wyoming	493,782	453,588	40,194	8.9
49	West Virginia	1,808,344	1,793,477	14,867	0.8
50	North Dakota	642,200	638,800	3,400	0.5
(N/A)	District of Columbia	572,059	606,900	-34,841	-5.7
(N/A)	**United States**	281,421,906	248,709,873	32,712,033	13.2

Table 3. States Ranked by Percent Population Change: 1990 to 2000

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SUMMARY OF RECOVERY FUND FEATURES

State	Fund Since	Payment Limits Claimant	Contractor	Source of Revenues	Last FY Claims Filed	Paid	Last Fiscal Year Receipts	Payouts	Fund Balance
AL	1993	25.000	50.000	$30 initial & upon annual renewal	12	0	N/A	0	476.000
AZ	1981	20.000	100.000	$300 initial & $130 annually	684	456	4,245.704	2.836.050	4.674.973
CT		15.000		Salesmen $40 & Ctr $100 initially & annually	N/A	N/A	1,931.055	800.230	N\A
FL	1993	25.000	100.000	$.005 per sq ft on building permits	185	72	1,270,182	982.656	851.000
HI	1974	12.500	25.000	$150 initial & up to $500 if fund goes below $250.000	40	13	84.130	130.648	180.000
IN	1988	20.000	50.000	Journeymen $30 & Ctr $75 initial & when fund < $400.000	0	0	6.690	0	N/A
MA	1992	10.000	75,000	$100 to $500 initial fee based on # employees	N/A	88	476,065	365.124	2.127,833
MD	1985	10.000	100.000	$100 initial & $50 biennially & when fund < $250.000	370	191	578.988	834.574	1.601.462
MI	1982	75.000 per home		$50 initial & up to $50 if fund is less than $1.000.000	174	N/A	413.000	1.046.000	13.000
MN	1993	50.000	50.000	$100 to $200 based on ctr annual volume	N/A	102	1.092.397	838.227	2.848.271
NV	2001	30.000	200.000	$100 to $500 annual assessment based on monetary limit	N/A	N/A	N/A	N/A	N/A
NJ	1979	Purchase price of home		.2% to .8% of sales price of home	N/A	N\A	N\A	N/A	N\A
NC	1991	10% of fund balance		$5 per bldg permit	31	15	245.257	201.600	580.623
UT	1994	75.000 per home. 500.000 lifetime to single claimant		$195 initially from Ctr & Suppliers	128	76	529.243	438.690	3.609.122
VA	1980	10.000	40.000	$25 initial & $30 biennially	121	63	784.608	417.204	1.548.491

SUMMARY OF RECOVERY FUND FEATURES

State	Fund Since	Payment Limits Claimant	Payment Limits Contractor	Source of Revenues	Last FY Claims Filed	Last FY Claims Paid	Last FY Receipts	Last FY Payouts	Fund Balance
AL	1993	50,000	50,000	$30 initial fee & $30 when fund is < $500,000	12	0		0	476,000
AZ	1981	20,000	100,000	$300 initial & $70 annually	729	677	2,610,000	3,117,000	3,511,000
CT		10,000	No limit	Salesmen $40 & Ctr $100 initial & annually		129	1,529,000	568,000	
FL	1993	25,000	100,000	$.005 per sq ft on building permit	250	25	1,236,000	362,000	1,745,000
HI	1974	12,500	25,000	$150 initial & up to $250 if fund < $250,000 @ 12/31	73	6	90,800	124,000	516,000
IN	1988	20,000	50,000	Journeymen $30 & Ctr $75 initial & when fund < $330,000		1		10,000	
MA	1992	10,000	75,000	$100 to $500 initial fee based on number of employees		27		371,300	2,267,000
MD		10,000	50,000	$100 initial & $50 when fund < $250,000	506	280	566,000	657,000	1,707,000
MI	1982	75,000 per home		$50 initial & up to $50 if fund is less than $1,000,000	147	21	443,000	915,000	1,229,000
MN	1993	50,000	50,000	$100 to $200 based on ctr annual volume	46	25	909,000	162,000	1,964,000
NC	1991	10% of fund balance at time of payment		$5 per bldg permit	6	6	185,000	91,000	670,000
NJ	1979	purchase price of home		.2% to .8% of sales price of home					
Ut	1994	75,000 per home, 500,000 lifetime to single claimant		$195 initial from Ctr & Suppliers	12	0	2,760,000	0	2,760,000
VA	1980	10,000	20,000	$25 initial & if fund is < $400,000		84	1,831,000	535,000	1,845,000

REGISTRAR OF CONTRACTORS
RESIDENTIAL CONTRACTORS' RECOVERY FUND
STATEMENTS OF REVENUE, EXPENDITURES AND CHANGES
IN RETAINED EARNINGS (DEFICIT)
Years Ended June 30, 2000 and 1999

	2000	1999
REVENUE		
Initial fees earned (Note 6)	$ 1,133,080	$ 1,002,637
Renewal fees earned (Note 6)	2,323,612	1,833,172
Civil Penalties	9,000	13,325
Total Operating Revenue	3,465,692	2,849,134
LOSS EXPENSE		
Current period claims loss (Note 7)	2,769,892	2,754,197
Adjustment for prior periods (Note 8)	(375,747)	559,179
Repayments & recoveries	(466,855)	(280,461)
Net Loss Expense	1,927,290	3,032,915
OTHER OPERATING EXPENSES		
Salaries & employee benefits	344,042	335,642
Professional fees	5,500	5,500
Equipment	88,670	23,665
Public awareness	50,000	13,587
Other operating expenses	33,114	21,094
Total Other Operating Expenses	521,326	399,488
Net Operating Profit (Loss)	1,017,076	(583,269)
OTHER INCOME		
Interest	290,309	212,051
Net Income (Loss)	1,307,385	(371,218)
Deficit beginning of year	(5,193,756)	(4,822,538)
Accumulated Deficit end of year	$(3,886,371)	$(5,193,756)

See the accompanying notes and accountant's audit report

LICENSING

CONTRACTOR'S LICENSE BOND REQUIREMENTS

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Are there any bond requirements for a contractor's license?

Yes. It is your responsibility to file a Contractor's Bond in the amount required for your license classification, and anticipated annual gross volume. The bond may be in the form of a surety bond or a cash bond. Additional information on bonding requirements is provided in the license application packet.

Residential contractors are also required to provide a consumer protection bond. This may be in the form of a Surety Bond or cash deposit in the amount of $100,000.00, or payment into the Contractor's Recovery Fund. The application instructions provide detailed information on this requirement.

Where can I get a bond?

You may obtain a Surety Bond from your insurance agent or from another insurance company which is authorized by the Arizona Department of Insurance to operate in Arizona and issue contractors license bonds. Surety bonds require an Arizona resident insurance agent's complete address and signature.

You may also provide a bond in the form of cash or a certificate of deposit from any bank which operates in Arizona. Contact any Arizona Registrar of Contractors office to obtain an alternative to cash assignment form if you wish to use a certificate of deposit for your license bond.

How long is a bond valid?

The surety bond must be continuous. This means that there is no termination date on the bond. You may be required to pay premiums to the insurance company periodically to keep the bond in force. The bonding company has the right to cancel the bond but must send a notice to you and the Arizona Registrar of Contractors thirty days prior to the cancellation date. You will have to replace the bond or your license will be suspended.

If your bond is in cash, the agency will retain the bond until two years after the license terminates. If no claims are made against the bond in that time, you may apply to have the bond released to you.

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BOND LIMITS AND REGULATIONS

Contractor's license bonds are established in the following amounts as based upon the gross volume of work contemplated by the licensee within the State of Arizona for the ensuing fiscal year:

License Type	*Contemplated Gross Volume (Per License)*	*Bond Amount*
Residential General Contractors	$150,000 or less	$5,000
	In Excess of $150,000 but not more than $750,000	$9,000
	Over $750,000	$15,000
Residential Specialty Contractors	$100,000 or less	$1,000
	In excess of$100,000 but not more than $375,000	$4,250
	Over $375,000	$7,500
Commercial General Contractors	$150,000 or less	$5,000
(Includes General Engineering Contractors)	In excess of $150,000 but not more than $500,000	$10,000
	In excess of $500,000 but not more than one million	$15,000
	In excess of one million but not more than five million	$40,000
	In excess of five million but not more than ten million	$65,000
	Over ten million	$90,000
Commercial Specialty Contractors	$150,000 or less	$2,500
	In excess of $150,000 but not more than $500,000	$5,000
	In excess of $500,000 but not more than one million	$10,000
	In excess of one million but not more than five million	$20,000
	In excess of five million but not more than ten million	$32,500
	Over ten million	$45,000

Dual license bond amounts are calculated by combining the amount required for residential and commercial.

New applications
On all new applications for any classification of license, the applicant shall estimate his anticipated gross volume of work within the State of Arizona for the remainder of the present fiscal year and shall be governed by the bond requirements herein before set forth as they apply to his particular classification of license. The filing of a bond or deposit in a specified amount shall be deemed to be the equivalent of submitting a volume estimate within the dollar limitations applicable for such bond amount.

Renewal
All estimates made for renewal of licenses shall be made in such manner and upon a form acceptable to the Registrar of Contractors. The filing or continuation of a bond or deposit in a specified amount shall be deemed to be the equivalent of submitting a volume estimate within the dollar limitations applicable for such bond amount. The Registrar of Contractors is not responsible for over or under estimates of volume of work made by the licensee or for the sufficiency of any bond or deposit. A gross underestimate knowingly made by a licensee may be construed as a material misrepresentation and could subject the licensee to suspension or revocation of his license.

Increasing the Amount
The amount of the contractor's license bond may be increased at any time during the fiscal year. However, a surety bond or cash deposit in lieu of bond cannot be decreased except at the time of renewal for the ensuing fiscal year.

Effective Upon Filing
Surety bonds or cash deposits shall not become effective until filed with the Registrar's office and if the effective date as shown upon the bond is after the date of filing with the Registrar, then the effective date shown upon the bond shall be the controlling date on which the bond becomes effective.

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Webmaster

Revised: April 05, 2001.

STATE OF UTAH
DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING
APPLICATION FOR LICENSURE

CONTRACTOR

DOPL-AP-041 Rev. 04/28/00

APPLICATION INSTRUCTIONS AND INFORMATION

General Statement: The Division desires to provide courteous and timely service to all applicants for licensure. To maximize its efficiency and level of service, the Division will process complete applications only. **A complete application includes all applicable supporting documents and fees.** The fees are for processing your application and will not be refunded. Failure to complete the application and supply all necessary information may result in denial of licensure. Please read all instructions carefully.

Supporting Documents and Fees:

1. Submit a "Certificate of Good Standing", a copy of the "Articles of Incorporation", the "Articles of Organization," or a computer printout from the Utah Division of Corporations. This is not required if the business entity is a sole proprietor operating under his own personal given name.

   If the applicant's company is incorporated in another state, submit a copy of the "Utah Certificate of Authority" or "Business Name Registration" from the Utah Division of Corporations.

   If the applicant is using any name other than the applicant's given name, submit a copy of the "DBA Registration" filed with the Utah Division of Corporations. Adding any word(s), e.g., construction, masonry, plumbing, etc., to the given name requires a DBA registration.

2. Submit an original "Certificate of Insurance" issued by the applicant's public liability insurance carrier. The certificate must show coverage of at least $100,000 for each incident and $300,000 in total. The named insured and address of insured listed on the certificate must be the name and address of the applicant. DOPL must be named as the certificate holder at the U.S. mail address listed below.

   This certificate is a separate document provided by your insurance agent. Copies of your policy are not acceptable. We are unable to accept incomplete or insufficient certificates. A temporary binder certificate will be acceptable only if it provides that a permanent certificate will be issued to the Division at or prior to the commencement of operations.

3. Submit the following documents if the applicant hires employees or intends to hire employees OR complete the "Affidavit Claiming No Employees" section of this application.

- An original "Certificate of Insurance" issued by the applicant's workers' compensation insurance carrier. The named insured listed on the certificate must be the name and address of the applicant.

  For an applicant whose office is located outside of Utah, the certificate must show that the insurance covers work performed by Utah employees.

  For an applicant using a professional employer organization, submit an executed copy of the agreement and a certificate of workers' compensation insurance from the professional employer organization's insurance carrier.

- A copy of the registration form or quarterly billing from the Utah Department of Workforce Services - Unemployment Insurance. The document must show the applicant's name and account number printed on it by the department. The name on the account must be the same as the name on this application.

- A copy of a return or payment coupon from the Utah State Tax Commission. The document must show the applicant's name and payroll withholding tax account number printed on it by the tax commission. The name on the account must be the same as the name on this application.

- A copy of a return or payment coupon from the Internal Revenue Service (IRS). The document must show the applicant's name and federal ID number printed on it by the IRS. The name on the account must be the same as the name on this application.

4. Submit the original letter from Experior with the applicant's qualifying individual's passing score on the Utah Contractor Law Examination.

5. Submit the original letter from Experior with the applicant's qualifying individual's passing score on the classification specific examination(s) (trade exams).

   If the qualifier has passed the trade exam in Alabama, Arizona, Arkansas, California, Florida, Georgia, Louisiana, Michigan, Mississippi, Nevada, New Mexico, North Carolina, South Carolina, Tennessee, Virginia, or West Virginia, request that the state include the examination information on the "Request For Verification of License" form of this application. See the additional information for electrical and plumbing qualifiers below.

6. Submit an "Affidavit Of Qualifying Experience" form from each employer documenting that the applicant's qualifying individual meets the qualifying experience requirement.

7. Submit **one** of the following to demonstrate the financial responsibility of the applicant.

- Completed and signed questionnaire, or
- A DOPL Aggregate Bond Limit form filled out and signed by the applicant and the applicant's bonding company verifying an aggregate bonding limit. (These forms are available from DOPL upon request).

8. Submit the appropriate non-refundable application processing fees made payable to DOPL.
   - $200.00 for a General Engineering Contractor license.
   - $200.00 for a General Building Contractor license.
   - $200.00 for a Residential & Small Commercial Building Contractor license.
   - $200.00 for a license in a Specialty Classification (first classification only).
   - $100.00 for each additional Specialty Classification after the first initial Classification.

9. Submit $195.00 assessment fee made payable to the Residence Lien Recovery Fund or complete the "RLRF Exemption Certificate" section of this application.

   This initial assessment fee is for membership in the Residence Lien Recovery Fund and will be refunded upon written request of the applicant, if the application for licensure is denied.

   Additional Important Information:

   Utah Contractor Business-Law Exam: All qualifiers must pass the Utah Contractor Business-Law Examination. Contact Experior at the address and telephone number below to register for the examination.

   Experior, 5486 South 1900 West, Suite C, Taylorsville, UT 84118 (801) 355-5009.

   You may also purchase a reference manual from Experior which has been prepared to assist candidates taking exams. In addition, the following applicable laws and rules are available on the Internet at http://www.commerce.state.ut.us/dopl/dopl1.htm.

   - Division of Occupational & Professional Licensing Act
   - General Rules of the Division of Occupational & Professional Licensing
   - Utah Construction Trades Licensing Act
   - Utah Construction Trades Licensing Act Rules

2. **Trade Classification Specific Examination(s):** Applicants must apply directly to Experior at the address and telephone number above to register for the classification specific examinations (trade exams). There is a separate fee for the examination which is the responsibility of the applicant to the testing agency.

3. **Electrical and Plumbing Qualifiers:** A qualifier for S200 General Electrical Contractor must be licensed as a Master Electrician. A qualifier for S201 Residential Electrical Contractor must be licensed as a Residential Master Electrician. A qualifier for the S210 General Plumbing Contractor must be licensed as a Journeyman Plumber. A qualifier for the S217 Residential Plumbing Contractor must be licensed as a Residential Journeyman Plumber. **There are separate applications for Utah licensure as an electrician or plumber.**

4. **Addresses and Telephone Numbers:**
   a. Workers' Compensation Fund of Utah, 392 E. Winchester, Murray, Utah, (801) 288-8020
   b. Utah Department of Workforce Services - Unemployment Insurance, 140 East 300 South, Salt Lake City, Utah 84111, (801) 536-7400
   c. Utah Division of Corporations, 160 East 300 South, 1st Floor, Salt Lake City, Utah 84111, (801) 530-4849 #1
   d. Internal Revenue Service, 50 South 200 East, Salt Lake City, Utah, 1-800-829-3676
   e. Utah State Tax Commission, 210 North 1950 West, Salt Lake City, Utah 84134, (801) 297-2200.

5. **The Residence Lien Recovery Fund:** If the owner of a single family or duplex residence enters into a contract for construction on the residence with a licensed or unregulated contractor or a real estate developer, pays the contractor or real estate developer in full according to the terms of the written contract including any modifications, a person who would otherwise be entitled to recover through the mechanic's lien process set forth in Title 38, Chapter 1, U.C.A. may not maintain a mechanics' lien upon the residence or recover a judgment in any civil action against the homeowner for the construction expenses. To allow those who are precluded from maintaining a mechanics' lien to recover unpaid construction expenses, the law provides for the establishment of the Residence Lien Recovery Fund which is created from assessments of contractors, suppliers, and other parties who participate in the construction of residential housing.

   Who Must Register With The Fund: Each applicant for a contractor license must either register with the Fund or certify that it is exempt from registration. Applicants applying only for exempt classifications, who do not hold licenses in non-exempt classifications, and will not be providing qualified services for residential construction are the only persons who may certify that they are exempt from registration. Applicants for exempt classifications who hold non-exempt licenses or who will be providing qualified services must register with the Fund, as must applicants for all other classifications, regardless of whether they will actually be providing qualified services for residential construction. Exempt Classifications include:

E100 General Engineering Contractor	S441 Non Electrical Outdoor Ad Sign Contractor
S211 Boiler Installation Contractor	S450 Mechanical Insulation Contractor
S262 Gunnite and Pressure Grouting Contractor	S470 Petroleum System Contractor
S320 Steel Erection Contractor	S480 Piers and Foundations Contractor

S322 Metal Building Erection Contractor
S323 Structural Stud Erection Contractor
S340 Sheet Metal Contractor
S360 Refrigeration Contractor
S440 Sign Installation Contractor

I101 General Engineering Trades Instructor
I102 General Building Trades Instructor
I103 General Electrical Trades Instructor
I104 General Plumbing Trades Instructor
I105 General Mechanical Trades Instructor

Qualified Services: Services and materials provided for the construction of single family and duplex residential housing are called qualified services. Qualified services include any of the following: contractor services; architectural services; engineering services; land surveying services; landscape architectural services; design and specification services of mechanical and other systems; other services relating to the design, drawing, surveying, specification, cost estimation, or other professional services; providing materials, supplies, components or similar products; renting equipment or materials; or providing labor at the site of construction.

Multiple Registration with the Residence Lien Recovery Fund: Contractors who hold licenses in multiple classifications, including E-100 (General Engineering), B-100 (General Building), R-100 (Residential and Small Commercial) and any of the specialty classifications or who also provide supplies and materials are required to register only once with the Fund. A contractor, however, who applies for a new license due to a change in the form of its business, (e.g., change from a sole proprietorship to a corporation or L.L.C.) is required to register with the Fund for the new license. Fund registration fees are attached to the license of the prior business and are not transferable to the new license.

Effective Date of Registration with the Residence Lien Recovery Fund: The effective date of registration for new contractor applicants is the date the license is issued or the date the initial assessment was paid, whichever is later.

Renewal of Registration with the Residence Lien Recovery Fund: Registration in the Fund expires on the due date of any special assessment, unless the registration is renewed by payment of the special assessment. Special assessments will be levied as needed, in amounts appropriate to the claims history of the Fund.

6. **Updating Address Information:** It is the applicant's responsibility to maintain a current address with the Division/Fund. If its address is incorrect, the applicant will not receive notice of claims filings, special assessments, renewal notices or other correspondence.

Make Residence Lien Recovery Fund Fees Payable To:

Residence Lien Recovery Fund

Make Contractor Licensure Fees Payable To:

DOPL

Mail Complete Application To:

By U.S. Mail
Division of Occupational & Professional Licensing
P.O. Box 146741
Salt Lake City, Utah 84114-6741

By Delivery or Express Mail
Division of Occupational & Professional Licensing
160 East 300 South, 4 th floor
Salt Lake City, Utah 84111

Telephone Numbers:

Residence Lien Recovery Fund:
(801) 530-6104

Contractor Licensure:
(801) 530-6091
(801) 530-6159
(801) 530-6430
(801) 530-6532

Fax Number:

(801) 530-6511

CONTRACTOR CLASSIFICATIONS

Primary Classifications:
E100 General Engineering Contractor
B100 General Building Contractor
R100 Residential and Small Commercial Contractor
R200 Factory Built Housing Set-Up Contractor
I101 General Engineering Trades Instructor
I102 General Building Trades Instructor
I103 Electrical Trades Instructor
I104 Plumbing Trades Instructor
I105 Mechanical Trades Instructor
S200 General Electrical Contractor
S210 General Plumbing Contractor
S220 Carpentry Contractor
S230 Metal and Vinyl Siding Contractor
S240 Glass and Glazing Contractor
S250 Insulation Contractor
S260 General Concrete Contractor
S270 General Drywall, Stucco and Plastering Contractor
S280 General Roofing Contractor
S290 General Masonry Contractor
S300 General Painting Contractor
S310 Excavation and Grading Contractor
S320 Steel Erection Contractor
S330 Landscaping Contractor
S340 Sheet Metal Contractor
S350 HVAC Contractor
S360 Refrigeration Contractor
S370 Fire Suppression Systems Contractor
S380 Swimming Pool and Spa Contractor
S390 Sewer and Water Pipeline Contractor
S400 Asphalt Paving Contractor
S410 Pipeline and Conduit Contractor
S420 General Fencing and Guardrail Contractor
S430 Metal Firebox and Fuel Burning Stove Installer
S440 Sign Installation Contractor
S450 Mechanical Insulation Contractor
S460 Wrecking and Demolition Contractor
S470 Petroleum System Contractor
S480 Piers and Foundations Contractor
S490 Wood Flooring Contractor
S500 Recreational Equipment & Surfaces Contractor
Subclassifications:
R101 Residential and Small Commercial Nonstructural Remodeling and Repair Contractor
S201 Residential Electrical Contractor
S211 Boiler Installation Contractor
S212 Irrigation Sprinkling Contractor
S213 Industrial Piping Contractor

S214 Water Conditioning Equipment Contractor
S215 Solar Energy Systems Contractor
S216 Residential Sewer Connection and Septic Tank Contractor
S217 Residential Plumbing Contractor
S221 Cabinet and Millwork Installation Contractor
S231 Raingutter Installation Contractor
S261 Concrete Form Setting and Shoring Contractor
S262 Gunnite and Pressure Grouting Contractor
S263 Cementations Coating Systems, Resurfacing & Sealing
S271 Plastering and Stucco Contractor
S272 Ceiling Grid Systems, Ceiling Tile and Panel Systems Contractor
S273 Light-weight Metal and Non-bearing Wall Partitions Contractor
S274 Drywall
S281 Single Ply and Specialty Coating Contractor
S282 Build-up Roofing Contractor
S283 Shingle and Shake Roofing Contractor
S284 Tile Roofing Contractor
S285 Metal Roofing Contractor
S291 Stone Masonry Contractor
S292 Terrazzo Contractor
S293 Marble, Tile and Ceramic Contractor
S294 Cultured Marble Contractor
S321 Steel Reinforcing Contractor
S322 Metal Building Erection Contractor
S323 Structural Stud Erection Contractor
S351 Refrigerated Air Conditioning Contractor
S352 Evaporative Cooling Contractor
S353 Warm Air Heating Contractor
S421 Residential Fencing Contractor
S441 Non Electrical Outdoor Advertising Sign Contractor
S491 Laminate Floor Contractor
S500 Sports and Athletic Courts, Running Track, and Playground Installation Contractor